

# **ZONING BOARD OF REVIEW**

## **Barrington, Rhode Island**

### **June 22, 2016**

**APPLICATIONS #3842, #3847, #3848, and #3849**

#### **MINUTES OF THE MEETING:**

At the call of the meeting by the Chairman, Thomas Kraig, the Board met with Mark Freel, Peter Dennehy, Paul Blasbalg, David Rizzolo, and Ladd Meyer.

Also present were Solicitor Andy Teitz and Building Official Bob Speaker

At 7:00 P.M., Mr. Kraig called the meeting to order.

#### **MINUTES OF THE PREVIOUS MEETING:**

**MOTION:** Mr. Freel made a motion to approve the May 19, 2016 minutes as written. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**Continuation of application #3842, George & Beth Glanvill, 23 Walnut Rd., Barrington, RI, applicants and owners, for permission to replace a deck with a larger deck with steps. Assessor's Plat 17, Lot 183, R-10 District, 23 Walnut Rd., Barrington, RI, requiring dimensional relief for rear yard setback and exceeding maximum lot coverage.**

Present: George & Beth Glanvill, applicants  
Scott Kelly, friend of applicants

Mr. Kelly explained that the proposal is the same as originally presented but he has drawn improved plans with correct measurements. He used a plot plan and measured from the fences on all sides. On the street side, this recalculation left additional property beyond the fence, which he now assumed was Town property – originally, he had assumed that this property was the applicant's, which is why the distance to the street had been greater.

The applicants said that they are asking for the least relief necessary to accommodate a table, chairs and grill on the deck. They cannot move the deck farther to the right on the drawing and still be able to access the bulkhead. While the plans aren't totally to scale, the dimensions are correct. The only relief requested is for seven feet for the rear yard setback – it will be thirteen feet instead of the twenty feet required.

**MOTION:** Mr. Dennehy moved to approve the application based on the revised plans indicating that 7' of relief is needed from the rear lot line. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the deck size is not unreasonable given what the space will be used for and there were no objections to this proposal.; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is nothing to indicate that that is the case; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because a deck of this size is a normal request and no one else is affected by the addition; D) that the relief to be granted is the least relief necessary because the applicants demonstrated their need for a deck of this size. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because a request for a usable size deck is understandable and a normal request.

**Application #3847, Ronald Evans, 24 Brook St., Barrington, RI, applicant and owner, for permission to construct a deck off the back of existing breezeway. Assessor's Plat 12, Lot 241, R-10 District, 24 Brook St., Barrington, RI, requiring dimensional relief for rear yard setback.**

Present: Ronald Evans, applicant

Audience: John Wood, 23 Brook Street, neighbor across the street

Mr. Evans explained that they wish to construct a 12'x12' deck as an extension off an existing breezeway; the deck would be eleven feet from the back yard property line. They chose those dimensions because they have louvered windows and a door opening to the back deck which would give them enough clearance off the back of the deck for grilling and living space. The deck would be at the same level as the breezeway.

In response to the Board's question as to why the deck could not be extended towards the kitchen with less depth / extension into the back yard (greater width and less depth), Mr. Evans said that there is a window to the basement for dryer ventilation that he does not want to block and there is drainage that comes from the gutters. In addition, there are bedrooms and a kitchen to the left with no access to the outside. The Board suggested that they extend the deck a few feet more towards the kitchen and reduce the depth of the deck by two feet, putting the deck thirteen feet from the rear yard property line instead of the eleven feet requested. The applicant did not respond positively to this suggestion. The Board felt that there was not sufficient reasons for needing the amount of relief as indicated in the proposal.

Mr. Wood, a neighbor, spoke in favor of this application.

**MOTION:** Mr. Freel moved to approve the application to build a deck with limitations as follows:

1. The deck go no closer than 13 feet to the rear property line, reducing the amount of

- relief requested by two feet.
2. Any lateral extension of the deck remain in the setback so approved.
  3. The applicant can extend the deck on the west side by up to two feet in order to achieve an equivalent amount of deck surface space by making it a 10'x14' deck rather than a 12'x12' deck.
  4. The applicant has the option to move the deck stairs to either the east or west side of the deck.

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the applicant has shown that given the configuration of this house, and its location on the lot, putting a deck behind the breezeway is a logical location; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no basis to suggest that either of those factors exist; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because there is no indication that this is going to have an impact on the surrounding area or character of the neighborhood; however, to grant the applicants the nine feet of relief they request (permitting the deck eleven feet from the property line instead of the thirteen feet approved) in an area where lots are of this size is significant and can have an impact; D) that the relief to be granted is the least relief necessary because a 10' by 14' or more deck is reasonable, and permitting the deck at thirteen feet from the rear property line is also reasonable in this area. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because it is reasonable to want a deck with usable space for a table, chairs and a grill.

**Application #3848, Jerrod O'Connor, 7 Bowden Ave., Barrington, RI, applicant and owner, for permission to construct front dormer, rebuild half of back roof and extend 2<sup>nd</sup> floor 5 feet over existing 1<sup>st</sup> floor structure, add 2<sup>nd</sup> floor bath, extend master closet, add 2<sup>nd</sup> floor bedroom, add new side stairs and stoop, extend deck and move stairs from side of deck to back. Assessor's Plat 33, Lot 13, R-10 District, 7 Bowden Ave., Barrington, RI, dimensional relief for front and side yard setback, and setback relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.**

Present: Jerrod O'Connor, applicant  
Scott Weymouth, Arris Design  
Cyndee Fuller, Conservation Commission

Mr. O'Connor explained that they are seeking approval to expand their living space on the second floor by putting a dormer at the front and expanding over half of the back in order to put in a 2nd floor bathroom and create three bedrooms on that floor. In addition, the deck needs to be rebuilt and they would like to expand it.

Mr. Weymouth said that the Conservation Commission approved this application provided that the deck stair configuration is changed so that it stays within the rectangle of the existing deck plus the extension that is proposed on the deck to the north. They did not have an objection to the increase in the width of the deck but did not want the stairs to go more towards the water. Mr. Weymouth distributed two alternate floor plans (Exhibit A and Exhibit B) to the Board that relocates the stairs.

Ms. Fuller explained that the Conservation Commission did not want the deck or its stairs expanded more to the west / water side - a minor expansion to the northwest is acceptable. She indicated that either of the plans shown on Exhibits A and B would be acceptable.

Mr. Weymouth said that the relief on the first floor is because of the new stoop and steps out of the side door entrance. That entrance has become the primary entrance to the house, and it lacks a landing. In order to make it safer, they would like to extend three feet for a landing which would continue the line of the existing mudroom and be no closer to the property line than the mudroom now is.

On the 2nd floor, they would like to build a front dormer and build over the single story portion of the house to maximize the square footage of that floor so their sons can have their own rooms, and to add a second bathroom, but all within the existing footprint. Other than the stoop, steps and deck, there is no footprint expansion to the home, and the change to the deck improves the setback by one foot. Eventually, they would like any new mechanicals to be on the 2nd floor.

Mr. O'Connor said that the storm drainage is controlled by gutters that flow away from the house and there are no changes proposed. Ms. Fuller said that the Conservation Commission had neither discussed nor expressed concern about the storm drainage.

A letter of support dated June 7, 2016 from neighbors Eric Gardner and Elizabeth Buckley of 1 Bowden Avenue, Barrington, RI was entered into the record.

**MOTION:** Mr. Freel made a motion to approve the dimensional variance portion of this application subject to the following conditions as set forth in the Conservation Commission's report for this application, and also limited to either Exhibit A (option 1) or Exhibit B (option 2) of the revised drawings submitted at this meeting for the proposed deck:

1. The new deck to be constructed on pillars/sonotubes and be of a slatted construction with no impermeable materials beneath it.
2. Use of appropriate erosion control measures prior to and during all soil disturbance work.
3. Storage of all construction material on east side of house.

Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because virtually the entire lot is located within the setback area from the wetland so

anything proposed by the applicant would require some kind of relief, and this is an unusual lot, being long and narrow; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is nothing to suggest that either of these is applicable; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because all homes in the area is very close to the water and nothing that they are proposing is inconsistent with the character of the neighborhood; D) that the relief to be granted is the least relief necessary because the applicant has done an excellent job of working within very tight side yard constraints and is moving the deck farther from the side yard setback, and the stoop is a necessary improvement in view of the dangerous condition created by the steps leading up to an outward opening door. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because the deck needs to be replaced and a deck is normal in a location like this, and the desire to have an extra bedroom and bath with a growing family is a reasonable request.

**MOTION:** Mr. Freel made a motion to approve the special use permit portion of this application, taking into account the Conservation Commission's report and the limitation of either Exhibit A (option 1) or Exhibit B (option 2) for the revised deck plans. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served because there will be no negative impact on the public; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because the expansion of the second floor and changes to the deck are appropriate in this area; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community because these changes will have no such effect; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because changes of this nature are normal in this area.

Additionally, the applicant, to the extent necessary, has satisfied any relevant standards of Section §185-169 describing the Wetlands Overlay District.

Furthermore, pursuant to § 185-175, an exemption from the standards of § 185-174A is appropriate based upon the recommendations of the Conservation Commission and the conditions imposed by it which are incorporated in this Board's approvals.

**Application #3849, Joseph Marcoccio, 26 Appian Way, Barrington, RI, applicant, and Joseph and Donna Marcoccio, owners, for permission to add a deck off the back of house. Assessor's Plat 4, Lot 43, R-10 District, 26 Appian Way, Barrington, RI, requiring dimensional relief for rear yard setback.**

Present: Joseph and Donna Marcoccio, owners

Mr. Marcoccio explained that they are proposing this deck to provide additional space and to improve

safety – Mrs. Marcoccio takes care of their two young grandchildren at the home and they wish to have railing around the deck. The current landing and stairs go out to approximately 6: 1/2 feet from the house and they are looking to encroach another estimated 1: 1/2 feet towards the property line. The measurements were done by a potential contractor who lives at the property directly behind where the deck is being proposed.

The Board's asked why the deck could not be moved farther to the north. Mr. Marcoccio said that there is a faucet that would be below the level of the deck if it were moved, and they wanted the deck to be symmetrical with the existing sliders.

The Board was not satisfied that appropriate measurements had been taken, and that necessary dimensions were missing from the plan. The Board suggested that the applicant consider redesigning the deck by moving it to the north as far as possible in order to require less relief from the rear yard setback and return with all accurate dimensions. Measurements should be from the closest point of the deck to the fence, which has been represented as being on the property line.

**MOTION:** Mr. Freel made a motion to continue this application to the July 21, 2016 meeting and asked that the applicant provide revised information to the Building Official by July 7, 2016 that includes:

1. An 8 x 10 photograph of the back of the house that contains written dimensions from the edge of the house to any items that may be a factor such as the faucet, slider, etc., in moving the deck to the north
2. A plan showing measurements from the closest point of the deck to the fence

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

**ADJOURN:**

There being no other business, Mr. Rizzolo moved to adjourn at 9:40 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary  
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor